

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF SECRETARY

Amendment to the Commission's Rules)
Regarding a Plan for Sharing the Costs) WT Docket No. 95-157
of Microwave Relocation) RM-8643

To: The Commission

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REPLY COMMENTS

Chester Telephone Company, The Concord Telephone Company, Fort Mill Telephone Company, Home Telephone Company, Inc., Lancaster Telephone Company, Lockhart Telephone Company, North State Telephone Company, Ridgeway Telephone Company, Rock Hill Telephone Company, Skyline Telephone Membership Corporation, and West Carolina Rural Telephone Cooperative, Inc. (the "Partners") hereby reply to comments on the Commission's *Notice of Proposed Rule Making*, WT Docket No. 95-157, FCC 95-426, released October 13, 1995. The Partners are individual local exchange telephone companies in North Carolina and South Carolina who have ownership interests in PCS entities. Specifically, the Partners agree with most commenters that the Commission should adopt cost-sharing rules. 1/ Adoption of such rules will encourage system-wide, rather than

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1/ Only two commenters opposed the adoption of cost sharing rules. See Infocore Wireless, Inc. at 3; Michael P. Rappe, Minnesota Equal Access Network Services, Inc. at 1-2.

link-by-link relocations, and likely will reduce the number of required negotiations. 2/

For administrative simplicity, the Partners urge the Commission to adopt the “proximity threshold” as the method for determining whether the operation of a new facility will cause interference for purposes of cost-sharing. 3/ Adoption of the proximity threshold will establish an unambiguous standard for determining whether a PCS entity is required to share the cost associated with a particular microwave relocation. Unlike other proposed methods for determining cost-sharing obligations, the proximity threshold contains no “variations” that could lead to disputes. Further, the Partners believe that the proximity threshold would provide results similar to those obtained by using TIA Bulletin 10-F in conjunction with the Irregular Terrain Model.

The Commission should require cost-sharing, however, only in co-channel cases. The Partners believe that a co-channel case should be defined as one where a microwave facility operates on frequencies assigned to a particular PCS entity. Thus, a PCS entity will be required to share in the costs of a microwave relocation if

2/ See The City of San Diego Comments at 3; Valero Transmission, L.P. Comments at 2; Southern California Gas Company Comments at 3-4; Omnipoint Communications Comments at 2-3; UTC Comments at 5-8; APCO Comments at 13; Los Angeles County Sheriff's Department Comments at 2-3; American Public Power Association Comments at 3; Santee Cooper Comments at 1; East River Electric Power Cooperative Comments at 2.

3/ See AT&T Wireless Services, Inc. Comments at 7-9; GTE Service Corporation Comments at 6; PCS PrimeCo, L.P. Comments at 12-13; Sprint Telecommunications Venture Comments at 25-26.

it proposes to place a PCS facility into operation within the proximity threshold of the relocated path. The particular frequency on which the PCS facility will operate is irrelevant, provided the relocated microwave path was operating on frequencies assigned to the PCS provider. Defining co-channel in this manner will eliminate disputes over whether a particular licensee was able to avoid a cost-sharing obligation by engineering around a particular microwave path. 4/ The Partners believe that it is unlikely that a PCS licensee could engineer around a microwave path on a permanent basis and, thus, PCS licensees should be required to share in the costs associated with the relocation of a microwave path previously operating on frequencies now assigned to the PCS entity, provided the PCS entity has proposed facilities located within the proximity threshold of the relocated path.

The Partners support the revised Reimbursement Table proposed by PCIA and BellSouth. 5/ The revised table is more consistent with the Commission's analysis in the NPRM. 6/ Further, the Partners also support PCIA's request to serve as the clearing house. 7/ PCIA "is now the largest FCC-designated frequency coordinator in the Business Radio Service." 8/ Accordingly, PCIA has sufficient spectrum management experience to adequately serve as the clearing house.

4/ See Southwestern Bell Mobile Systems, Inc. Comments at 7; Michael Rappe Comments at 3.

5/ BellSouth Comments at 5-9; PCIA Comments at 31.

6/ NPRM at ¶¶ 32-34.

7/ See PCIA Comments at 39-43.

8/ See NPRM at ¶ 17; PCIA Comments at 40.

Although the Partners support the concept of a clearing house, parties should be permitted to enter into alternative, private cost-sharing arrangements. 9/ The Commission should make clear, however, that all PCS entities must provide start-up funding for the clearing house. Once an entity has provided its share of start-up expenses, it will have no continuing obligation to finance the clearing house, unless it uses the clearing house to obtain cost-sharing payments. Thus, if parties enter into private contractual arrangements that allow them to receive payments without any assistance from the clearing house, their only financial obligation to the clearing house will be start-up funding.

The Partners agree with those commenters that support the proposed cost-sharing caps. 10/ These caps do not limit payments that microwave incumbents can

9/ See AT&T Wireless Services, Inc. Comments at 3-6; GTE Service Corporation Comments at iii; Pacific Bell Mobile Services Comments at 6; PCIA Comments at 37-38; Sprint Telecommunications Venture Comments at 31.

10/ See Central Iowa Power Cooperative Comments at 1; City of San Diego Comments at 5; Williams Wireless Comments at 3; Alexander Utility Engineering Inc. Comments at 2-3; East River Electric Power Cooperative Comments at 2; National Rural Electric Cooperative Association Comments at 5; Western Wireless Corporation Comments at 6; PCIA Comments at 8-10; GO Communications Corporation Comments at 5; U.S. Airwaves, Inc. Comments at 2; UTAM Comments at 11; Iowa L.P. 136 Comments at 2; Telecommunications Industry Association Comments at 8-9; see also AT&T Wireless Services, Inc. Comments at 10-11; PCS PrimeCo, L.P. Comments at 8-9. But see Valero Transmission, L.P. Comments at 3; American Petroleum Institute Comments at 10; Southern California Gas Company Comments at 4-6; UTC Comments at 12-14; APCO Comments at 13; Los Angeles County Sheriff's Department Comments at 3; American Gas Association Comments at 4; The Southern Company's Comments at 4-6; American Public Power Association Comments at 3; Santee Cooper Comments at 2; Tenneco Energy Comments at 12-14; Maine Microwave Associates Comments at 2; Interstate Natural Gas Association of America Comments at 2.

receive. 11/ Rather, they only limit the expenses that can be shared among PCS providers. A microwave incumbent cannot be relocated unless it receives comparable facilities, regardless of the cost-sharing caps. The Partners also support the proposal that tower modifications should be included in the \$150,000 cap, rather than the \$250,000 cap. 12/ Modifying the caps in this manner will encourage parties to improve existing towers, rather than build new towers.

Finally, the Partners agree with those parties who urged the Commission to clarify that incumbents can waive their right to a twelve month test period. 13/ A microwave incumbent that has waived its right to a test period in return for a cash payment should not be allowed to relocate back to the 2 GHz band because it has squandered its payment or discovers that its new system design does not work as planned. Incumbents are “sophisticated” communications providers with substantial experience and resources. 14/ If they choose to build their own system in return for a lump-sum payment, a PCS entity’s obligation to the incumbent should cease with the payment.

11/ City of San Diego Comments at 5; Williams Wireless Comments at 3; Alexander Utility Engineering Inc. Comments at 2-3.

12/ BellSouth Comments at 18-19.

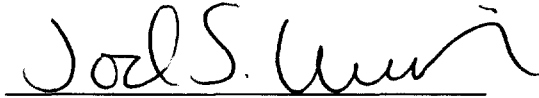
13/ AT&T Wireless Services, Inc. Comments at 12; GTE Service Corporation Comments at 19; Pacific Bell Mobile Services Comments at 12; PCS PrimeCo, L.P. Comments at 20; PCIA Comments at 24; Southwestern Bell Mobile Systems, Inc. Comments at 5-6; UTAM Comments at 18-19; Western Wireless Corporation Comments at 16.

14/ See Association of American Railroads Comments at 14.

CONCLUSION

The Partners urge the Commission to adopt cost-sharing rules, consistent with these reply comments, as soon as possible.

Respectfully submitted,



Joel S. Winnik
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
(202) 637-5600

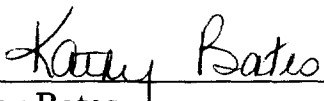
M. John Bowen, Jr., Esquire
Margaret M. Fox, Esquire
McNAIR LAW FIRM, P.A.
Post Office Box 11390
1301 Gervais Street
Columbia, South Carolina 29201
(803) 799-9800

Counsel for the Partners

January 16, 1996

CERTIFICATE OF SERVICE

I, Kathy Bates, a legal secretary with the law firm of Hogan & Hartson L.L.P., do hereby certify that I have served a copy of the Reply Comments on the persons listed on the attached list by depositing the same in the United States mail, postage prepaid, this 16th day of January, 1996.



Kathy Bates

SERVICE LIST

Robert M. Gruss
WILKES, ARTIS, HEDRICK & LANE
Chartered
1666 K Street, N.W. #1100
Washington, DC 20006

Ronald K. Greenhalgh
Chief Engineer
National Rural Electric Cooperative
Assoc.
4301 Wilson Blvd.
Arlington, VA 22203-1860

Terry Boss
VP - Environment, Safety & Operations
Interstate Natural Gas Assoc. Of
America
555-13th St., NW
Ste. 300 West
Washington, DC 20004

Dale Krohse, P.E.
Manager of Engineering
Central Iowa Power Cooperative
P.O. Box 2517
Cedar Rapids, Iowa 52406

Leonard Raish, Esq.
FLETCHER, HEALD & HILDRETH,
P.L.C.
11th Floor
1300 North 17th Street
Rosslyn, VA 22209-3801

John Gillispie
The Wiltech Group
The Tulsa Union Depo
Suite 200
111 East First Street
Tulsa, OK 74103-2800

Ronald Dorler
President
Maine Microwave Assoc.
220 Riverside Industrial Pkwy.
Portland, Maine 04103

Julian Shepard, Esq.
Thomas Keller, Esq.
VERNER, LIPPERT, BERNHARD,
McPHERSON & HAND, CHARTERED
901 15th Street, NW
Washington, DC 20005

Leo Fitzsimon
GO Communications
201 N. Union St., Suite 410
Alexandria, VA 22314-2642

ITS
2100 M Street, NW
Washington, DC 20037

Frederick Day, Esq.
Industrial Telecommunications Assoc.
Inc.
1110 N. Glebe Road, Ste. 500
Arlington, VA 22201-5720

William Richardson, Jr.
Lynn Charytan
WILMER, CUTLER & PICKERING
2445 M Street, NW
Washington, DC 20037

Michael Morell, Esq.
COX & SMITH Inc.
112 East Pecan, Suite 1800
San Antonio, TX 78205

William Chamblin III
Chief Operating Officer
Infocore Wireless, Inc.
661 Moore Road
King of Prussia, PA 19406

Mark O'Connor, Esq.
Piper & Marbury L.L.P.
1200 19th Street, NW
7th Floor
Washington, DC 20036

Mark Golden
VP - Industry Affairs
PCIA
1019 19th Street, NW
Ste. 1100
Washington, DC 20036

M. Todd Tuten, Esq.
American Public Power Assoc.
2301 M St., NW
Washington, DC 20037

Carole Harris, Esq.
McDermott, Will & Emery
1850 K Street, NW
Suite 500
Washington, DC 20006

Jeffrey Clarke, Esq.
American Gas Assoc.
1515 Wilson Blvd.
Arlington, VA 22209

James Troup, Esq.
ARTER & HADDEN
1801 K Street, NW
Ste. 400K
Washington, DC 20006-1301

Michael Kurtis
Kurtis & Assoc., PC
2000 M Street, NW
Ste. 600
Washington, DC 20036

Jeff Nelson
East River Electric Power Co.
121 Southeast First St.
Madison, SD 57042

Robert Miller, Esq.
Gardere & Wynne, LLP
1601 Elm Street, Ste. 3000
Dallas, TX 75201

Jonathan Blake, Esq.
Kurt Wimmer, Esq.
Sprint Telecommunications Venture
Covington & Burling
1201 Pennsylvania Ave., NW
Washington, DC 20044

The American Petroleum Institute
Wayne Black, Esq.
Keller & Heckman
1001 G Street
Suite 500 West
Washington, DC 20001

Southern California Gas Co.
Elizabeth Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez
1111 19th Street, NW
Ste. 1200
Washington, DC 20036

Carolina PCS I Limited Partnership
Jeanne M. Walsh, Esq.
Kurtis & Assoc.
2000 M Street, NW
Ste. 600
Washington, DC 20036

Thomas Crowe
Law Offices of Thomas Crowe
2300 M Street, N.W.
Ste. 800
Washington, DC 20037

Jeffrey Sheldon, Esq.
UTC
1140 Connecticut Ave., NW
Ste. 1140
Washington, DC 20036

Pamela Portin, Esq.
U.S. AirWaves Inc.
10500 N.E. 8th Street
Ste. 625
Bellevue, Washington 98004

Louis Gurman, Esq.
Doane Kiechel, Esq.
Nadja Sodos, Esq.
Gurman, Blask & Freedman Chartered
1400 16th Street, NW
Ste. 500
Washington, DC 20554

William Roughton, Jr.
PCS PRIMECO. L.P.
1133 20th Street, NW
Ste. 850
Washington, DC 20036

Willard Nichols
UTAM, Inc.
1155 Connecticut Ave., NW
Ste. 401
Washington, DC 20036

Howard Symons, Esq.
AT&T Wireless
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, PC
701 Pennsylvania Ave., NW
Ste. 900
Washington, DC 20004

GTE
Andre J. Lachance, Esq.
1850 M Street, NW
Ste. 1200
Washington, DC 20036

Pacific Bell Mobile Services
James Wurtz, Esq.
Margaret Garber, Esq.
1275 Pennsylvania Ave., NW
Washington, DC 20004

Southwestern Bell Mobile Systems, Inc.
Glen Glass, Esq.
17330 Preston Road, Ste. 100A
Dallas, TX 75252

Jack Richards, Esq.
Raymond Kowalski, Esq.
Keller & Heckman
1001 G Street, NW
Ste. 500 W
Washington, DC 20002

Michael Rappe, Esq.
c/o Minnesota Equal Access Network
Services Inc.
10300 6th Ave., North
Plymouth, MN 55441

Michele Farquhar
Chief, Wireless Telecommunications
Bureau
Commercial Radio Division
Federal Communications Commission
2025 M Street, NW Room 7002
Washington, DC 20554

The Honorable James J. Quello
Federal Communications Commission
1919 M Street, NW Room 802
Washington, DC 20554

The Honorable Andrew C. Barrett
Federal Communications Commission
1919 M Street, NW Room 826
Washington, DC 20554

The Honorable Susan Ness
Federal Communications Commission
1919 M Street, NW Room 832
Washington, DC 20554

The Honorable Rachelle B. Chong
Federal Communications Commission
1919 M Street, NW Room 844
Washington, DC 20554

The Honorable Reed E. Hundt
Chairman
Federal Communications
Commission
1919 M Street, NW Room 814
Washington, DC 20554